



## **MARICOPA COUNTY JUSTICE COURT**

**If you want to file a...**

# **MOTION TO VACATE JUDGMENT**

## **Small Claims & Civil**



# MARICOPA COUNTY JUSTICE COURT

A **MOTION TO VACATE JUDGMENT** can be filed by either party to vacate a default judgment or a judgment following a hearing or trial. **If the time to appeal the judgment has expired, the motion to Vacate Judgment must be served on the other party in the same manner as if serving a summons and complaint and proof of service must be filed with the court.** If the time to appeal the judgment has not expired the Motion to Vacate Judgment may be served by first class mail.

**If the motion to Vacate Judgment is your first filing in the case, you will be required to pay an answer fee.**

**The opposing party has TEN days after service of this motion to file a written response. If no response is received, the court will consider the motion and will enter an Order.**

**Please STOP...**

If there has not yet been a judgment rendered from the court.

**Please PROCEED...**

If you want to court to vacate the judgment rendered.

**FORMS Needed:**

Civil Motion to Vacate Judgment

**INSTRUCTIONS**

- 1) Complete the form.
- 2) Make one copy for yourself.
- 3) File the original form with the court clerk and pay the fee(s).
- 4) Serve a copy on the other party (and attorney if applicable):
  - A. By first class mail if the time to appeal the judgment has not passed.
  - B. In the manner as provided in Rule 4, Arizona Rules of Civil Procedure – If the time to appeal the judgment has passed.

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address.**

Visit us at [www.superiorcourt.maricopa.gov/justicecourts](http://www.superiorcourt.maricopa.gov/justicecourts) for additional filing information and online forms.



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        )        -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        )        -  
Defendant(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        )        -  
Attorney for Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(        )        -  
Attorney for Defendant(s) Name / Address / Phone

☐ MOTION to VACATE JUDGMENT  
☐ ORAL ARGUMENT REQUESTED

☐ MOTION TO MODIFY JUDGMENT  
☐ BY AGREEMENT

I am the ☐ Plaintiff ☐ Defendant in this case.  
I would like the court to:

On penalty of perjury I state that the foregoing is true and correct.

Date: \_\_\_\_\_  
☐ Plaintiff ☐ Defendant

I CERTIFY that I delivered / mailed a copy of this MOTION to:

☐ Plaintiff at the above address    ☐ Plaintiff's attorney    ☐ Defendant at the above address    ☐ Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
☐ Plaintiff ☐ Defendant

**NOTICE TO MOVING PARTY:** *If the time to appeal the judgment has expired, service by process server or service by any other methods of service provided for service of summons in Rule 4, 4.1, or 4.2 Rules of Civil Procedure, is required. Proof of service must be filed with the court.*

*If the time to appeal the judgment has not expired the motion is required to be served by first class mail.*

**NOTICE TO RESPONDENT:** *You have ten (10) judicial days after service of this motion to file a written response, if you wish to do so. If no response is given, the Court will consider the relief requested and will enter an order without hearing any objection you may have.*



## Maricopa County Justice Courts

### INSTRUCTIONS for FILING and SERVING a MOTION to VACATE or MODIFY JUDGMENT

*CIVIL*

*EVICTIION ACTION / SPECIAL DETAINER*

*SMALL CLAIMS*

1. **Check one** (1) of the boxes on the form (Vacate or Modify).
2. **Complete** the Motion form. Explain why you failed to appear. Explain the legal reason why the judgment should be vacated, set aside, or modified.
3. **Sign** the motion form.
4. **Return** the completed form to the court clerk and pay the appropriate filing fee (if applicable).
5. **Serving the Motion** on the other party. The other party must be served with a copy of the motion.

**If the time to appeal the judgment has not expired**, the other party may be served by first class mail.

**If the time to appeal the judgment has expired**, the other party must be served in the manner provided for service of summons in Rule 4, 4.1 or 4.2 Rules of Civil Procedure. Most generally a licensed process server is used to serve court papers.

Proof of service must be filed with the court. Your process server is required to file an affidavit with the court stating the date, the time, where and upon who service was made and to provide you with a copy of the affidavit.

6. **The opposing party has ten (10) judicial days** after service of the motion (or, if expedited, within the time fixed by the Judge) to file a written response. Any response filed must also be served upon you by first class mail. If the opposing party does not file a written response the court will consider the relief requested and enter an appropriate order.
7. **The court will consider** your request and any supporting documentation offered and the opposing party's response, if any.
8. **The court will rule on the motion** either without a hearing, or will set the matter for hearing and oral argument. If a hearing is set the court will notice all parties of the hearing date and you must appear and be prepared to present your argument to the court as to why the judgment should (or should not) be vacated or modified as requested.
9. **The court will mail** a copy of its ruling to all parties.